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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,625	06/15/2001	Stuart Taylor	10013451-1	8469

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

ELISCA, PIERRE E

ART UNIT PAPER NUMBER

3621

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/882,625

Applicant(s)

TAYLOR ET AL.

Examiner

Pierre E. Elisca

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[Signature]

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office action is in response to Applicant's Amendment, filed on 08/23/2004.
2. Claims 1-18 are pending.
3. The rejection to claims 1, 2, 6-10, and 13-18 under 35 U.S.c. 103 (a) as being unpatentable over Tal in view of Nozue, and to claims 3-5, and 11-12 as being unpatentable over Tal and Nozue in view of Ishiguro as set forth in the Office action mailed on 5/24/2004 is maintained.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 6-10, and 13-18 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Tal (U.S. Pat. No. 6,535,856) in view of Nozue et al. (U.S. pat. No. 5,890,189).

As per claims 1, 2, 6-10, and 13-18 Tal substantially discloses a database for dynamically regulating and enforcing open account payments (which equivalent to

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Applicant's claimed invention wherein said creating a multi-application terminal), comprising:

a memory management unit for separating said application in said memory, thereby permitting said payments (see., abstract, col 3, lines 22-59, memory management unit or database 34.n, and figs 2 and 3);

a processor for executing one or more applications (see., abstract, col 3, lines 22-59, processing module 24). It is to be noted that Tal fails to explicitly detail the claimed feature wherein said management unit operable to assign a protected region. However, Nozue discloses a management unit that can provide memory protection information that is assigned in advance to each region (see., fig 23, col 14, lines 1-53, col 23, lines 20-35). Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the database of Tal by including the limitation detailed above as taught by Nozue because this would monitor a buyer who has paid a seller and the seller has failed to deliver the goods or service properly.

As per claim 2, Tal discloses the claimed limitations wherein said memory management unit terminates an application or shuts down said terminal if it is determined that said application is accessing memory outside its assigned region (see., abstract, col 2, lines 33-58, specifically wherein said seller and buyers who have defaulted on payment terms, it is obvious to realize buyers who have defaulted on payment terms will have their services terminate or shut down).

6. Claims 3-5, and 11-12 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Tal (U.S. Pat. No. 6,535,856) and Nozue et al (U.S. Pat. No. 5,890,189) in view of Ishiguro, Ginya et al. (U.S. pat. No. 5,446,796).

As per claims 3-5, and 11-12 discloses the claimed limitations as stated in claim 1 above. It is to be noted that Tal and Nozue fail to explicitly disclose a public key and authenticating application. However, Ishiguro, Ginya discloses a master public key, card secret keys, and a card identification or authentication (see., abstract). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Tal and Nozue by including the limitation detailed above as taught by Ishiguro, Ginya because this would provide a secure memory.

RESPONSE TO ARGUMENTS

7. Applicant's arguments filed on 3/22/2004 have been fully considered but they are moot in view of new ground (s) of rejection.

REMARKS

8. In response to claims 1, 2, 6-10, and 13-18, Applicant argues that the current action has failed to establish a prima facie case for rejecting claims. The Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine,

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837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). See also *In re Eli Lilly & Co.*, 902 F.2d 943, 14 USPQ2d 1741 (Fed. Cir. 1990) (discussion of reliance on legal precedent); *In re Nilssen*, 851 F.2d 1401, 7 USPQ2d 1500 (Fed. Cir. 1988) (references do not have to explicitly suggest combining teachings); *Ex parte Clapp*, 227 USPQ 972 (Bd. Pat. App. & Inter.); and *Es parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993) (reliance on logic and sound scientific reasoning).

Also in reference to *Ex parte Levengood*, 28 USPQ2d, 1301, the court stated that "Obviousness is a legal conclusion, the determination of which is a question of patent law.

Motivation for combining the teachings of the various references need not to explicitly found in the reference themselves, *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Indeed, the Examiner may provide an explanation based on logic and sound scientific reasoning that will support a holding of obviousness. *In re Soli*, 317 F.2d 941 137 USPQ 797 (CCPA 1963)."

b. " a memory storing a plurality of payment and non-payment. However, the Examiner respectfully disagrees with assertion since Tal discloses this limitation in the abstract, col 3, lines 22-59, memory management unit or database 34.n, and figs 2 and 3.

c. As per claim 15, Applicant argues that the Examiner has failed to address the limitation " a terminal for accepting data from a credit card in conjunction with point of sale purchase information". The Examiner respectfully asserts, however, that Tal discloses this limitation in col 3, lines 44-59, specifically communication module 22 which includes one or more cards.

Conclusion

9. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 703 305-3987. The examiner can normally be reached on 6:30 to 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703 305-9769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pierre Eddy Elisca

Pierre Eddy Elisca

November 17, 2004